

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSHUA SHUMAN, a minor, by )  
and through his Mother and ) Civil Action  
Natural Guardian, ) No. 02-cv-03594  
TERESA SHERTZER; and )  
TERESA SHERTZER, Individually, )

Plaintiffs )

vs. )

PENN MANOR SCHOOL DISTRICT; )  
PENN MANOR SCHOOL BOARD; )  
C. WILLIS HERR, )  
RICHARD L. FRERICHS, )  
JEFFREY E. LYON, )  
PATRICK T. KLINE, )  
DONALD H. ANDERSON, )  
H. THOMAS HERR, )  
KELLY K. WITHUM, )  
DONNA WERT, )  
JEFFREY G. KREIDER, )  
DOLORES WARFEL, )  
STEVE SKROCKI, each Individually )  
and as Members/Officers of the )  
Penn Manor School Board; )  
GARY B. CAMPBELL, Individually )  
and as Superintendent of the )  
Penn Manor School District; )  
DONALD STEWART, Individually )  
and as Acting Superintendent of )  
the Penn Manor School District; )  
JANICE M. MINDISH, Individually )  
and as Principal of Penn Manor )  
High School of the Penn Manor )  
School District; )  
BRIAN D. BADDICK, Individually )  
and as Assistant Principal of )  
Penn Manor High School of the )  
Penn Manor School District; )  
PHILIP B. GALE, Individually )  
and as Dean of Students of )  
Penn Manor High School of the )  
Penn Manor School District; and )  
CAROLE FAY, Individually )  
and as a Teacher and )  
Agriculture Coordinator at )  
Penn Manor High School of the )  
Penn Manor School District, )

Defendants )

O R D E R

NOW, this 24<sup>th</sup> day of June, 2003, upon consideration of the motion of defendants to dismiss portions of the plaintiffs' complaint, which motion was filed August 5, 2002; upon consideration of Plaintiffs' Response to Defendants' Motion to Dismiss Portions of Plaintiffs' Complaint, which response was filed August 29, 2002; upon consideration of the memoranda of law of the parties; after oral argument held this date; and for the reasons articulated simultaneously on the record,

IT IS ORDERED that defendants' motion is granted in part and denied in part.

IT IS FURTHER ORDERED that plaintiffs' First Amendment claims in Count I are dismissed from plaintiffs' Complaint.

IT IS FURTHER ORDERED that plaintiffs' claims against individual defendants C. Willis Herr, Richard L. Frerichs, Jeffrey E. Lyon, Patrick T. Kline, Donald H. Anderson, H. Thomas Herr, Kelly K. Withum, Donna Wert, Jeffrey G. Kreider, Dolores Warfel, Steve Skrocki, Gary B. Campbell, Donald Stewart, Janice M. Mindish, Brian D. Baddick, Philip B. Gale and Carole Fay each named in their official capacities are dismissed from Counts I through XI of plaintiffs' Complaint.

IT IS FURTHER ORDERED that the claims of plaintiff Teresa Shertzer in Counts II through VII of plaintiffs' Complaint are dismissed.

IT IS FURTHER ORDERED that the claims of plaintiff Teresa Shertzer against defendant Brian D. Baddick in Count VIII of plaintiffs' Complaint are dismissed.

IT IS FURTHER ORDERED that defendant Carole Fay in her individual capacity is dismissed from Counts II, III, IV, V, VI, VII, VIII and X of plaintiffs' Complaint.

IT IS FURTHER ORDERED, it appearing that defendant Carole Fay has qualified immunity, Counts I through XI of plaintiffs' Complaint against defendant Carole Fay are dismissed.

IT IS FURTHER ORDERED that Count III of plaintiffs' Complaint is dismissed in its entirety.

IT IS FURTHER ORDERED that plaintiffs' substantive due process claims are dismissed wherever they may appear in plaintiffs' Complaint in addition to Count III.

IT IS FURTHER ORDERED that defendants Penn Manor School District and Penn Manor School Board are dismissed from Counts VIII through XI of plaintiffs' Complaint.

IT IS FURTHER ORDERED, it appearing that defendants C. Willis Herr, Richard L. Frerichs, Jeffrey E. Lyon, Patrick T. Kline, Donald H. Anderson, H. Thomas Herr, Kelly K. Withum, Donna Wert, Jeffrey G. Kreider, Dolores Warfel, Steve Skrocki, Gary B. Campbell and Donald Stewart are each entitled to high public official immunity, that those defendants are dismissed from Count VIII of plaintiffs' Complaint.

IT IS FURTHER ORDERED that in all other respects the motion of defendants to dismiss portions of the plaintiffs' Complaint is denied.

By:

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James Knoll Gardner  
United States District Judge